

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

FRANCOISE NGELE BUNDU

CRIMINAL COMPLAINT

CASE NUMBER: 05M-1076-JGD

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about January 15, 2004 in Middlesex county, in the

District of Massachusetts defendant ~~did~~ did, (Track Statutory Language of Offense)
remove a child from the United States outside the United States with intent to obstruct the lawful exercise of parental rights

in violation of Title 18 United States Code, Section ~~24~~ 1204

I further state that I am a ~~001~~ Special Agent, FBI and that this complaint is based on the following facts:
Official Title

See attached Affidavit of FBI Special Agent Tamara N. Harty

Continued on the attached sheet and made a part hereof:

☐ Yes ☐ No

SA Tamara N. Harty
Signature of Complainant

Sworn to before me and subscribed in my presence,

03-16-2005

Date

at

Boston, Massachusetts

City and State

JUDITH GAIL DEIN
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

Judith Gail Dein
Signature of Judicial Officer

AFFIDAVIT

I, Tamara N. Harty, Special Agent, Federal Bureau of Investigation (FBI), being duly sworn upon my oath, depose and state the following:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed for approximately two years. I have been assigned to the Boston Division since February, 2003. I am currently assigned to the Violent Crimes Task Force, which comprises personnel of the FBI, the Massachusetts State Police, and the police departments of Boston, Malden and Cambridge. The task force investigates crimes aboard aircraft, racketeering activity, human trafficking and kidnappings (international and national). I am the Crimes Against Children Coordinator for the Boston Division of the FBI and have attended several training sessions sponsored by the National Center for Missing and Exploited Children (NCMEC).

2. I am aware that Title 18, United States Code, Section 1204, makes it a federal criminal offense to remove a child from the United States or retain a child who has been in the United States outside the United States with intent to obstruct the lawful exercise of parental rights. Having so stated, I make this affidavit in support of a complaint charging an individual named Francoise Ngele Bundu ("Francoise Bundu") with violation of that statute.

3. The facts asserted in this affidavit are based on my

own investigation and/or on information provided to me by others connected with the investigation. In submitting this affidavit, however, I have not included each and every fact known to me about the investigation, but only those facts that I believe are sufficient to support a finding of probable cause.

4. In 1999, Benoit Ngedi Bundu ("Benoit Bundu") and Francoise Ngele Bundu married; both are originally from the Congo. On October 30, 2003, Francoise Bundu gave birth to twins, Maya Nsimba Bundu and Betoya Nzuzi Bundu. The Bundus were residing in Cambridge, Massachusetts at the time of the birth of the children.

5. The Bundus had been experiencing marital problems since shortly after their marriage, however, and they separated in late 2003. Francoise Bundu remained in the couple's Cambridge residence with the children while Benoit Bundu moved out and stayed with friends and at various hotels.

6. As of January 14, 2004, the Bundus were in the process of divorcing and resolving custody issues relating to the children. The case was before the Probate and Family Court in Middlesex County. On or about that date, the court issued an order which, among other things, granted Francoise Bundu permission to travel to the Congo with the children, from on or around February 1, 2004 to on or about March 1, 2004, to visit with family. The court imposed several restrictions upon

Francoise Bundu, however. She was required to provide Benoit Bundu with the children's itinerary for the trip to the Congo, evidence that plane tickets had been purchased, copies of the children's passports, and the address and telephone in the Congo where she could be reached. The order also required Francoise Bundu to allow Benoit Bundu's family in the Congo to visit with their children while they were in the Congo.

7. On or about January 15, 2004, and in violation of the court order, Francoise Bundu fled the United States with the children. Also notwithstanding the court's order, Francoise Bundu did not provide Benoit Bundu with any information regarding her destination or how she could be reached.

8. On or about March 3, 2004, Francoise Bundu's counsel in the divorce case represented to the court that Francoise Bundu was in Belgium. The court then granted sole legal and physical custody of the children to Benoit Bundu and issued an order requiring Francoise Bundu to return to the United States before 2:00 p.m. on March 5, 2004. She did not comply with the court's order. Instead, her counsel submitted a motion seeking to restore custody of the children to her, and presented the court with an airline itinerary demonstrating Francoise Bundu's intent to return to the United States with the children on Saturday, March 6, 2004. The court declined to give her custody of the children then, but set a hearing for Monday, March 8, 2004 to

review the issue further. The court also explicitly ordered that Francoise Bundu "deliver the children to the Court" on that day. However, Francoise Bundu did not appear with the children on that date or thereafter.

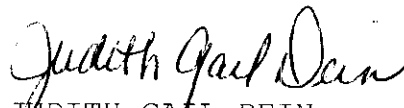
9. On January 19, 2005, the Interpol office in Kinshasa advised that Francoise, Maya and Betoya Bundu had been located at 46 Okito Avenue, Ngaliema Commune, the Congo. On or about February 15, 2005, the Interpol office sent another message advising that Francoise Bundu had attempted to travel to the United States but had returned to Belgium after experiencing illness and financial difficulties while traveling. I am aware from information obtained from Immigration and Customs Enforcement that Francoise Bundu now has an immigration hearing scheduled for April 5, 2005. Francoise Bundu has not contacted Benoit Bundu to notify him of this hearing, and it is believed that Francoise Bundu intends to attend the hearing and then quietly return to the Congo when the hearing has concluded.

10. Based on the foregoing, I believe there is probable cause to believe that on or about January 15, 2004, Francoise Bundu did move and travel in interstate and foreign commerce with the intent to obstruct the lawful exercise of parental rights, in violation of Title 18, United States Code, Section 1204.

A handwritten signature in black ink, reading "SA Tamara N. Harty". The signature is fluid and cursive, with the "SA" initials clearly visible at the beginning.

TAMARA N. HARTY
Special Agent, FBI

Sworn to before me this ~~14th~~ day of March 16, 2005, under the pains and penalties of perjury, at Boston, Massachusetts

A handwritten signature in black ink, reading "Judith Gail Dein". The signature is cursive and elegant, with the first letters of each name being capitalized and prominent.

JUDITH GAIL DEIN
United States Magistrate Judge

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: _____ Category No. II Investigating Agency FBICity Cambridge Related Case Information:County Middlesex Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant _____
Magistrate Judge Case Number _____
Search Warrant Case Number _____
R 20/R 40 from District of _____**Defendant Information:**Defendant Name Francoise Ngele Bundu Juvenile ☐ Yes ☒ No

Alias Name _____

Address _____

Birth date: 1967 SS#: 1771 Sex: F Race: _____ Nationality: Congolese

Defense Counsel if known: _____ Address: _____

Bar Number: _____

U.S. Attorney Information:AUSA Donald L. Cabell Bar Number if applicable _____Interpreter: ☐ Yes ☒ No List language and/or dialect: _____Matter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested ☐ Regular Process ☐ In Custody**Location Status:**

Arrest Date: _____

☐ Already in Federal Custody as _____ in _____☐ Already in State Custody _____ ☐ Serving Sentence ☐ Awaiting Trial☐ On Pretrial Release: Ordered by _____ on _____Charging Document: ☒ Complaint ☐ Information ☐ IndictmentTotal # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☒ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: March 16, 2005Signature of AUSA: Donald L. Cabell

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District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Francoise Ngele Bundu

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 U.S.C. §1204</u>	<u>International Parental Kidnapping</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: FBI